

DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
7500 Security Boulevard, Mail Stop S2-14-26
Baltimore, Maryland 21244-1850



Center for Medicaid and State Operations
Disabled and Elderly Health Programs Group (DEHPG)

December 21, 2007

Dear State Medicaid Directors,

The United States District Court for the District of Columbia has issued a preliminary injunction that enjoins CMS from implementing the final rule with comment concerning Average Manufacturer Prices (AMPs) to the extent that it affects Medicaid reimbursement rates for retail pharmacies under the Medicaid program. The order also enjoins CMS from disclosing AMP data to certain individuals or entities, including States or their representatives. A copy of the Order is attached to this letter.

As a result of this preliminary injunction, CMS will not be posting AMPs or Federal Upper Limits (FULs) on our website in late December 2007 despite the schedule we provided for such postings when the final rule with comment was published on July 17, 2007. Consequently, the schedule for States to implement the new FULs will be delayed until further notice. In addition, CMS is suspending the sending of monthly files of AMPs to States.

The preliminary injunction does not affect the use of AMP as defined in the July 17, 2007 final rule with comment for purposes of the Medicaid drug rebate program. Therefore, drug manufacturers will continue to report AMPs in accordance with the provisions of the July 17, 2007 rule and CMS will continue to issue unit rebate amounts (URAs) to the States based on the quarterly manufacturer submissions.

Sincerely,

Gale P. Arden
Director

Attachment

cc:

CMS Regional Administrators

CMS Associate Regional Administrators
for Medicaid and State Operations

Martha Roherty
Director, Health Policy Unit
American Public Human Services Association

Dennis Smith
Director
Center for Medicaid & State Operations

Bill Lasowski
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